

1           **Noreen Rucinski**  
1 Dir. Strategic Business Development  
2 Schneider Rucinski Enterprises  
2 3344 N Mt. View Dr  
3 San Diego CA 92116  
3 619-282-7977  
4 noreenr@cox.net  
4 Plaintiff in Pro Per  
5 Appearinig pro se

FILED  
08 APR 11 PM 3:08  
CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
BY: *[Signature]*  
DEPUTY

6  
7           **UNITED STATES DISTRICT COURT**  
8           **IN AND FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

9           SCHNEIDER RUCINSKI ENTERPRISES, )  
10           Plaintiff, )  
11           vs. )  
12           TOUCH ASIA OUTSOURCING )  
13           SOLUTIONS, INC., dba TOUCH ASIA )  
14           CALL CENTER, INC.; RUDY NGAW; )  
15           STRATASOFT, INC. PACIFIC CALL )  
16           CENTERES; LANE MCCARTY )  
17           individually and as an employee and/or )  
18           agent of STRATASOFT, INC.; JASON )  
19           PACE individually and as an employee )  
20           and/or agent of STRATASOFT, INC.; )  
21           MIKE BRIDGES individually and as an )  
22           employee and/or agent of STRATASOFT, )  
23           INC.; MICHAEL BRIDGES, JR., )  
24           individually and as an employee and/or )  
25           agent of STRATASOFT, INC.; INX, INC., )  
26           a Texas Corporation formerly known as I- )  
27           SECTOR CORPORATION; COLO 6 LLC, )  
28           a California Corporation, and NAVROZ )  
            HAJI, an individual, and DOES 1 through )  
            20, inclusive,

21           Defendants.

Case No.: 08 CV 0138 WQH POR

Date: May 19 2008  
Time: 11:00 AM

Judge: Hon. William Q Hayes

PLAINTIFF'S EX PARTE  
MOTION TO STRIKE DEFENDANTS  
REPLY (ANSWER) USCOLO, COLO 6  
LLC

"Oral argument not required unless requested  
by the courts"

23           PLAINTIFF'S EX PARTE MOTION TO STRIKE  
24           DEFENDANTS REPLY (ANSWER) USCOLO, COLO 6 LLC

25  
26           The Plaintiff Schneider Rucinski Enterprises (SRE)(“Plaintiff”) requested a  
27           Ex parte motion for the Judge to strike defendants answer to complaint. The  
28           rules of procedure pursuant to Rule 12(a)(2) of the Federal Rules of Civil

1 Procedure, hereby requests the Judge to allow the motion to strike against the  
2 Defendants, USCOLO LLC/DBA UCCOLO6., on the grounds that the Defendants  
3 have failed to answer or otherwise respond to the Plaintiff's Complaint on file.

4

5 Plaintiff ("SRE") respectfully submits this Ex parte request to Strike the response,  
6 denying the Defendant's Answer or response to Complaint, herein in accordance  
7 with the *Code of Civil Procedure*<sup>1</sup> section 435 entirely on the grounds a corporation  
8 cannot file a pleading in propria persona and Federal rules, 12F(2) Motion To  
9 Strike. (2) on motion made by a party either before responding to the pleading or, if  
10 a response is not allowed, within 20 days after being served with the pleading.  
11 behalf of the corporation in court proceedings, e.g., an officer or director, is not  
12 an attorney, that person would be engaged in the unlicensed practice of law  
13 thus putting out side the 20 days rules of procedure pursuant to Rule 55(a)  
14 allowed by the courts for a correct response from an attorney with regard to  
15 corporation to the Plaintiff's Complaint on file herein. USCOLO response is  
16 defective it could not be cured because it was "void," insofar as USCOLO could  
17 not represent itself. Therefore, the SRE request, the court dismiss the action  
18 because no valid complaint was filed within the statute of limitations. *Paradise v.*  
19 *Nowlin* (1948) 86 Cal.App.2d 897 (*Paradise*),

20

21

22 1. Plaintiff filed their original Petition with this court on January 26 2008.  
23 Plaintiff served Defendants by certified process server on or about February 1,  
24 2008, attached hereto as Exhibit "A" is plaintiff's certificate of service and  
25 acceptance of documents by manager Rick Fisch.

26

27

28 

---

<sup>1</sup> All further section references are to the Code of Civil Procedure.

1       2. Defendant's Manager, Rick Fisher acknowledges receipt of service in  
2 compliance of the Rules of Procedures for USCOLO LLC/DBA UCOLO6 LLC  
3 (exhibit B) and has submitted an answer to the courts February 21 2008.  
4 however, defendants' reply is defective (exhibit C) because it has not conformed in  
5 accordance within the rules of his court, in compliance with the Federal Rules of  
6 Civil Procedures, pursuant to *Code of Civil Procedure*<sup>2</sup> section 435, *entirety on*  
7 *the grounds a corporation cannot file a pleading in propria persona* and  
8 additionally not in accordance with the State Department of California  
9 Corporation Codes and Civil Local Rule 3-9(b). Taking in to consideration all of  
10 the above the defendants are a Corporation, and therefore must comply with the  
11 rules of representation of counsel in matters before this court. Defendants reply  
12 is signed by a manager, not licensed counsel. Therefore, the plaintiff requests  
13 that defendants reply be struck from the record and not be considered a timely  
14 response or answer to complaint. If the corporate agent who would likely appear  
15 on behalf of the corporation in court proceedings, e.g., an officer or director, is  
16 not an attorney, that person would be engaged in the unlicensed practice of law.  
17 (*Merco Constr. Engineers, Inc. v. Municipal Court* (1978) 21 Cal.3d 724, 730  
18 (*Merco*).) A motion to strike under section 435 et seq. is traditionally used to  
19 reach pleading defects that are not subject to demurrer. (5 Witkin, Cal. Proc., 4th  
20 ed., Pleading, § 960, p. 420.) Every pleading must be subscribed, i.e., signed, by  
21 the party or his or her attorney. (§ 446, subd. (a).)

22  
23       3. Defendants USCOLO and COLO6 in last 6 years has had many court  
24 actions pressed upon the company, which we would and will show at trial,  
25 including one other one lawsuit, I am aware of and was made part of by the state  
26 of California. The state filed a complaint against this corporation with the same  
27 directors and managers. In all other cases with matter of the courts it has

1 answered with an attorney who still shows the same attorney or record, Mr.  
2 Oberg. We contend as in all dealing with USCOLO with regard to SRE, they  
3 behave as they want, they do as they desire with no regard of the law. They add  
4 additional work as shown here. Yet in this matter to further add to the courts  
5 paper work and lack of respect. Has filed a response with no regard of the courts  
6 rules, with full knowledge of their identity as a corporation as they have done on  
7 previous summons and documents from the courts. (*Paradise's* summary  
8 conclusion was that any response (or, impliedly, other document) filed on behalf  
9 of a corporation by a non-attorney is automatically void, that is, of no legal effect  
whatever, an absolute nullity. (Black's Law Dict. (7th ed. 1999), p. 1568, col. 1.).  
10

11 Therefore it is my request, the court should not allow leave of the court for an  
12 opportunity of answer, beyond what it has done that was not with in the rules.  
13

14 4. I would like to make the courts aware, On February 4 they filed on  
15 February 21 and again discussed with them again March 9, 2008. It was  
16 discussed with this with the management, Rick , Haji an Max of USColo6. I was  
17 told they had an attorney and would be sending a response. It is now April 10,  
18 2008, with no response from an attorney on file or appearance of.

19 4. Pray for relief, to be determined for losses and return of funds paid for  
20 said equipment, losses for profits, losses for resale of equipment and or usage or  
21 property and losses property held in facilities in the amount of \$555,000.00.  
22

23 5. To the extent the opposing party is burdened by having to bring a motion  
24 to strike the complaint of a corporation not represented by counsel, the court,  
25 may order the corporation to pay the opposing party's additional unwarranted,  
26 expenses for bringing the motion. Had USCOLO otherwise timely filed complaint  
27 brief, minimal, and essentially inconsequential causing more undo time and extra  
28 work for the Pro Se Planitiff.

3 Wherefore, premises considered, the Plaintiff hereby requests the Clerk of  
4 this Court to enter into default the complaint, dated January 26, 2008 against  
5 the Defendant's USCOLO LLC/DBA UCLOLO6. a Nevada Corporation.

Respectfully submitted,

Noreen Rucinski

On behalf of Schneider Rucinski Enterprises

1

2

3

4

5

6

7

### **Points and Authorities**

8

9 1. *Code of Civil Procedure*<sup>3</sup> section 435, entirely on the grounds a corporation cannot file a  
10 pleading in propria persona

11 2. Rule 12(a)(F)(2) of the Federal Rules of Civil Procedure, hereby requests the Judge to  
12 allow the motion to strike against the Defendants, USCOLO LLC/DBA UCCOLO6., on the  
13 grounds that the Defendants have failed to answer or otherwise respond to the Plaintiff's  
14 Complaint on file.

15 3. (*Merco Constr. Engineers, Inc. v. Municipal Court* (1978) 21 Cal.3d 724, 730 (Merco).) A  
16 motion to strike under section 435 et seq. is traditionally used to reach pleading defects  
17 that are not subject to demurrer. (5 Witkin, Cal. Proc., 4th ed., Pleading, § 960, p. 420.)

18 4. Every pleading must be subscribed, i.e., signed, by the party or his or her attorney.  
19 (§ 446, subd. (a).)

20 5. corporation by a non-attorney is automatically void, that is, of no legal effect whatever,  
21 an absolute nullity. (Black's Law Dict. (7th ed. 1999), p. 1568, col. 1.).

22 6. Civil Local Rule 3-9(b).

23

24 7. A party against whom a complaint is filed has 30 days to demur or move to strike.  
25 (§§ 430.40; 435, subd. (b)(1).)

26 7. The USCOL filed its response on February 21, 2008 it was notified by SRE on  
February 29 and again, March 8 2008. Allowing time for additional 30 days for response  
with an Attorney.

27

28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10

**CERTIFICATE OF SERVICE**

11 I hereby certify that I have this day served a copy of the foregoing document :

12 MOTION FOR DEFAULT JUDGEMENT

13 A copy was served as follows:

14  
15  
16  
17 [X] **BY E-MAIL:** I sent a true copy via e-mail to all known parties of record who  
18 have provided e-mail addresses.

19 [X] **BY MAIL:** I sent a true copy via first-class mail to all known parties of record.

20 Executed in San Diego Ca , on the 11<sup>th</sup> day of April 2008 .

21  
22 Dated: April 11, 2008

23 SCHNEIDER RUCINSKI ENTERPRISES

24  
25  
26  
27  
28

By:   
Fred Rucinski,  
An Individual